



February 25, 2005

SENATE BILL No. 512

DIGEST OF SB 512 (Updated February 24, 2005 10:56 am - DI 87)

Citations Affected: IC 36-4; noncode.

Synopsis: Town government and annexation. Provides a procedure for changing a town into a city. Provides that a town may be changed into a city if the voters of the town approve a public question on changing the town into a city. Authorizes the town legislative body to provide by ordinance for the details of the conversion of the town into a city. Authorizes a town that began conversion into a city under existing law to complete conversion under the new statute. Permits a town that has begun its conversion into a city to complete the conversion by January 1, 2006, by holding a special election for city officers in 2005. Provides that a town does not have to obtain the consent of a city before annexing territory within three miles of the city if the town annexes territory located in a different county than a city or the annexation is a voluntary annexation or an annexation initiated by a municipality and consented to by at least 51% of the landowners of the annexed territory. Provides that if the territory to be annexed consists of not more than 10 parcels, and 80% of the boundary of the annexed territory is contiguous to the municipality, a remonstrance requires the signatures of at least 90% of the landowners in the annexed territory. Repeals current statutes governing conversion of a town into a city.

Effective: January 1, 2004 (retroactive); upon passage.

**Drozda, Long, Gard, Lewis,
Antich-Carr, Zakas**

January 18, 2005, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.
February 24, 2005, amended, reported favorably — Do Pass.

SB 512—LS 6996/DI 75+



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February 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 512

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-4-1-9 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE UPON PASSAGE]: Sec. 9. The validity of the prior acts,
3 contracts, and obligations of a ~~municipality~~ **city** that changes its status,
4 name, or classification under this chapter is not affected by that change.
5 The ordinances, rules, and regulations of the ~~municipality~~ **city** continue
6 in effect until amended or repealed.
- 7 SECTION 2. IC 36-4-1.5 IS ADDED TO THE INDIANA CODE
8 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
9 UPON PASSAGE]:
- 10 **Chapter 1.5. Changing a Town Into a City**
- 11 **Sec. 1. (a) A town may be changed into a city only as provided**
12 **in this chapter.**
- 13 **(b) A town with a population of less than two thousand (2,000)**
14 **may not be changed into a city.**
- 15 **Sec. 2. A town may be changed into a city through the following:**
- 16 **(1) The town legislative body must adopt a resolution**
17 **submitting to the town's voters the question of whether the**

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town should be changed into a city. The town legislative body shall adopt a resolution described in this subdivision if at least the number of registered voters of the town equal to ten percent (10%) of the total votes cast in the town at the last election for secretary of state sign a petition requesting the town legislative body to adopt such a resolution. In determining the number of signatures required under this subdivision, any fraction that exceeds a whole number shall be disregarded.

(2) A resolution adopted under subdivision (1) must fix the date for an election on the question of whether the town should be changed into a city. If the election is to be a special election, the date must be:

(A) not less than thirty (30); and

(B) not more than sixty (60);

days after the notice of the election. If the election is to be on the same date as a general election, the resolution must state that fact and be certified in accordance with IC 3-10-9-3.

(3) The town legislative body shall file a copy of the resolution adopted under subdivision (1) with the circuit court clerk of each county in which the town is located. The circuit court clerk shall immediately certify the resolution to the county election board.

(4) The county election board shall give notice of the election in the manner prescribed by IC 3-8-2-19. IC 3-10-6 applies to the election.

(5) The question described in subdivision (1) shall be placed on the ballot in the form prescribed by IC 3-10-9-4. The text of the question shall be: "Shall the town of _____ change into a city?".

(6) If a majority of the voters voting on the question described in subdivision (1) vote "yes", the town is changed into a city as provided in this chapter. If a majority of the voters voting on the question vote "no", the town remains a town.

Sec. 3. (a) A town legislative body may satisfy the requirements of this section in an ordinance adopted either before or after the town's voters vote on the question described in section 2 of this chapter.

(b) If a resolution is adopted under section 2 of this chapter, the town legislative body shall adopt an ordinance providing for the transition from governance as a town to governance as a city. The ordinance adopted under this section must include the following

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1 details:

2 (1) A division of the town into city legislative body districts as
3 provided in the applicable provisions of IC 36-4-6.

4 (2) Provisions for the election of the following officers:

5 (A) The city executive.

6 (B) The members of the city legislative body.

7 (C) The city clerk or city clerk-treasurer as appropriate
8 under IC 36-4-10.

9 (3) The date of the first election of the city officers. The first
10 election may be held only on the date of a general election or
11 a municipal election. Candidates for election to the city offices
12 shall be nominated:

13 (A) at the corresponding primary election during a general
14 election year or a municipal election year; or

15 (B) as otherwise provided in IC 3.

16 (4) Subject to section 4 of this chapter, the term of office of
17 each city officer elected at the first election of city officers.

18 (5) Any other details the town legislative body considers
19 useful in providing for the transition of the town into a city.

20 (c) An ordinance adopted under this section is effective only if
21 the voters of the town approve the conversion of the town into a
22 city under section 2(6) of this chapter.

23 (d) The provisions of an ordinance adopted under this section
24 are subject to all other laws governing the structure of city
25 government.

26 (e) Subject to this chapter, the town legislative body or the city
27 legislative body (after the town is changed into a city) may amend
28 an ordinance adopted under this section.

29 Sec. 4. (a) Notwithstanding any other law, the term of office of
30 the city officers elected at the first election of city officers held
31 under the ordinance adopted under section 3 of this chapter:

32 (1) begins on January 1 after the first election of city officers;
33 and

34 (2) may not extend after December 31 of the next municipal
35 election year that occurs after the first election of city officers.

36 (b) The ordinance adopted under section 3 of this chapter may
37 provide for a shorter term of office for specified members of the
38 city legislative body to stagger terms as permitted under IC 3 and
39 IC 36-4-6 if a general election will occur before the next municipal
40 election after the first election of city officers.

41 (c) After the first municipal election after the first election of
42 city officers, the term of office of each city officer is four (4) years.

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1 **Sec. 5. A town becomes a city under this chapter on January 1**
 2 **after the first election of city officers under section 4 of this**
 3 **chapter.**

4 **Sec. 6. (a) The acts, contracts, and obligations of a town that is**
 5 **changed into a city under this chapter become the acts, contracts,**
 6 **and obligations of the city.**

7 **(b) The ordinances, rules, and regulations of a town that is**
 8 **changed into a city under this chapter continue in effect as**
 9 **ordinances, rules, and regulations of the city until amended or**
 10 **repealed.**

11 **SECTION 3. IC 36-4-3-9 IS AMENDED TO READ AS FOLLOWS**
 12 **[EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 9. (a) A**
 13 **town must obtain the consent of both the metropolitan development**
 14 **commission and the legislative body of a county having a consolidated**
 15 **city before annexing territory within the county where a consolidated**
 16 **city is located.**

17 **(b) This subsection does not apply to the following:**

18 **(1) A town:**

19 **(A) located in a county having a population of more than four**
 20 **hundred thousand (400,000) but less than seven hundred**
 21 **thousand (700,000); and**

22 **(B) that has a population of more than thirty thousand**
 23 **(30,000);**

24 **(2) A town:**

25 **(A) located in a county having a population of more than one**
 26 **hundred eighty thousand (180,000) but less than one hundred**
 27 **eighty-two thousand seven hundred ninety (182,790);**

28 **(B) having a population of more than thirty thousand (30,000);**
 29 **and**

30 **(C) located in a different county than the city:**

31 **A town must obtain the consent of the legislative body of a second or**
 32 **third class city before annexing territory within three (3) miles of the**
 33 **corporate boundaries of the city unless:**

34 **(1) the town that proposes to annex the territory is located in**
 35 **a different county than the city; or**

36 **(2) the annexation by the town is:**

37 **(A) an annexation under section 5 or 5.1 of this chapter; or**

38 **(B) consented to by at least fifty-one percent (51%) of the**
 39 **owners of land in the territory the town proposes to annex.**

40 **(c) In determining the total number of landowners of the**
 41 **annexed territory and whether signers of a consent under**
 42 **subsection (b)(2)(B) are landowners, the names appearing on the**

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1 **tax duplicate for that territory constitute prima facie evidence of**
 2 **ownership. Only one (1) person having an interest in each single**
 3 **property, as evidenced by the tax duplicate, is considered a**
 4 **landowner for purposes of this section.**

5 ~~(c)~~ **(d)** Each municipality that is known as an included town under
 6 IC 36-3-1-7 is also considered a town for purposes of this section.

7 SECTION 4. IC 36-4-3-11 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except as
 9 provided in section 5.1(i) of this chapter and ~~subsection~~ **subsections**
 10 **(d) and (e)**, whenever territory is annexed by a municipality under this
 11 chapter, the annexation may be appealed by filing with the circuit or
 12 superior court of a county in which the annexed territory is located a
 13 written remonstrance signed by:

14 (1) at least sixty-five percent (65%) of the owners of land in the
 15 annexed territory; or

16 (2) the owners of more than seventy-five percent (75%) in
 17 assessed valuation of the land in the annexed territory.

18 The remonstrance must be filed within ninety (90) days after the
 19 publication of the annexation ordinance under section 7 of this chapter,
 20 must be accompanied by a copy of that ordinance, and must state the
 21 reason why the annexation should not take place.

22 (b) On receipt of the remonstrance, the court shall determine
 23 whether the remonstrance has the necessary signatures. In determining
 24 the total number of landowners of the annexed territory and whether
 25 signers of the remonstrance are landowners, the names appearing on
 26 the tax duplicate for that territory constitute prima facie evidence of
 27 ownership. Only one (1) person having an interest in each single
 28 property, as evidenced by the tax duplicate, is considered a landowner
 29 for purposes of this section.

30 (c) If the court determines that the remonstrance is sufficient, it shall
 31 fix a time, within sixty (60) days of its determination, for a hearing on
 32 the remonstrance. Notice of the proceedings, in the form of a summons,
 33 shall be served on the annexing municipality. The municipality is the
 34 defendant in the cause and shall appear and answer.

35 (d) If an annexation is initiated by property owners under section 5.1
 36 of this chapter and all property owners within the area to be annexed
 37 petition the municipality to be annexed, a remonstrance to the
 38 annexation may not be filed under this section.

39 **(e) This subsection applies if:**

40 **(1) the territory to be annexed consists of not more than ten**

41 **(10) parcels; and**

42 **(2) eighty percent (80%) of the boundary of the territory**

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1 **proposed to be annexed is contiguous to the municipality.**
 2 **An annexation may be appealed by filing with the circuit or**
 3 **superior court of a county in which the annexed territory is located**
 4 **a written remonstrance signed by at least ninety percent (90%) of**
 5 **the owners of land in the annexed territory as determined under**
 6 **subsection (b) of this chapter.**

7 SECTION 5. IC 36-4-3-13 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) Except as
 9 provided in subsections (e) and (g), at the hearing under section 12 of
 10 this chapter, the court shall order a proposed annexation to take place
 11 if the following requirements are met:

12 (1) The requirements of either subsection (b) or (c).

13 (2) The requirements of subsection (d).

14 (b) The requirements of this subsection are met if the evidence
 15 establishes the following:

16 (1) That the territory sought to be annexed is contiguous to the
 17 municipality.

18 (2) One (1) of the following:

19 (A) The resident population density of the territory sought to
 20 be annexed is at least three (3) persons per acre.

21 (B) Sixty percent (60%) of the territory is subdivided.

22 (C) The territory is zoned for commercial, business, or
 23 industrial uses.

24 (c) The requirements of this subsection are met if the evidence
 25 establishes the following:

26 (1) That the territory sought to be annexed is contiguous to the
 27 municipality as required by section 1.5 of this chapter, except that
 28 at least one-fourth (1/4), instead of one-eighth (1/8), of the
 29 aggregate external boundaries of the territory sought to be
 30 annexed must coincide with the boundaries of the municipality.

31 (2) That the territory sought to be annexed is needed and can be
 32 used by the municipality for its development in the reasonably
 33 near future.

34 (d) The requirements of this subsection are met if the evidence
 35 establishes that the municipality has developed and adopted a written
 36 fiscal plan and has established a definite policy, by resolution of the
 37 legislative body as set forth in section 3.1 of this chapter. The fiscal
 38 plan must show the following:

39 (1) The cost estimates of planned services to be furnished to the
 40 territory to be annexed. The plan must present itemized estimated
 41 costs for each municipal department or agency.

42 (2) The method or methods of financing the planned services. The

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plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.

(3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.

(e) At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).
 (2) Order a proposed annexation not to take place if the court finds that all of the ~~following~~ conditions **set forth in clauses (A) through (D) and, if applicable, clause (E)** exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

- (i) Police and fire protection.
- (ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) One (1) of the following opposes the annexation:

- (i) At least sixty-five percent (65%) of the owners of land in

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the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(E) This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than ten (10) parcels. At least ninety percent (90%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter.

(f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

(1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or

(2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) This subsection applies only to cities located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory that was within the boundaries of one (1) or more municipalities. At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

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(C) One (1) of the following opposes the annexation:

(i) A majority of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(h) The most recent:

- (1) federal decennial census;
- (2) federal special census;
- (3) special tabulation; or
- (4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

SECTION 6. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 36-4-1-3; IC 36-4-1-4; IC 36-4-1-4.1; IC 36-4-1-5.

SECTION 7. [EFFECTIVE UPON PASSAGE] (a) A town that began conversion into a city under IC 36-4-1, as in effect before January 1, 2005, may complete its conversion into a city under IC 36-4-1.5, as added by this act.

(b) This SECTION expires July 1, 2009.

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) A town that began conversion into a city under IC 36-4-1, as in effect before January 1, 2005, may complete its conversion into a city under this SECTION.

(b) The town legislative body must adopt an ordinance providing for the transition from governance as a town to governance as a city. The ordinance must include the following details:

(1) A division of the town into city legislative body districts as provided in the applicable provisions of IC 36-4-6.

(2) Provisions for the election of the following officers:

(A) The city executive.

(B) The members of the city legislative body.

(C) The city clerk or city clerk-treasurer as appropriate under IC 36-4-10.

(3) That the first election of the city officers will be held in a special election on November 8, 2005, as provided in this SECTION.

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(4) Subject to subdivision (5), the term of office of each city officer elected at the November 8, 2005, special election.

(5) The term of office of each city officer elected at the special election may be as follows, as provided in the ordinance:

(A) The term of office of a city officer may expire January 1, 2007. The successor of a city officer described in this clause shall be elected at the November 7, 2006, general election and serve a term of four (4) years, beginning January 1, 2007.

(B) The term of office of a city officer may expire January 1, 2008. The successor of a city officer described in this clause shall be elected at the November 6, 2007, municipal election and serve a term of four (4) years, beginning January 1, 2008.

(C) The term of office of a city officer may expire January 1, 2009. The successor of a city officer described in this clause shall be elected at the November 4, 2008, general election and serve a term of four (4) years, beginning January 1, 2009.

The ordinance may provide for different terms of office of the city officers elected at the November 8, 2005, special election in order to provide for staggered terms of office.

(6) Any other details the town legislative body considers useful in providing for the transition of the town into a city.

(c) If a town legislative body adopts an ordinance under this SECTION, a copy of the ordinance must be filed with the circuit court clerk of each county in which the town has territory.

(d) Notwithstanding IC 3-10-8-5, candidates for a city office elected under this SECTION shall be nominated as follows:

(A) If a candidate is affiliated with a major political party, the candidate shall be nominated by a declaration of candidacy. A declaration of candidacy must be filed not earlier than July 27, 2005, and not later than August 26, 2005. Except as provided in this SECTION, IC 3-8-2 applies to a declaration of candidacy filed under this SECTION.

(B) If a candidate is not affiliated with a major political party, the candidate may be nominated by a petition of nomination. A petition of nomination must be filed not earlier than July 27, 2005, and not later than August 26, 2005. Except as provided in this SECTION, IC 3-8-6 applies to a petition of nomination filed under this

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1 **SECTION.**

2 **(C) If a candidate wants to be a write-in candidate, the**
 3 **candidate shall file a declaration of intent to be a write-in**
 4 **candidate not earlier than July 27, 2005, and not later than**
 5 **August 26, 2005. Except as provided in this SECTION,**
 6 **IC 3-8-2 applies to a declaration of intent to be a write-in**
 7 **candidate filed under this SECTION.**

8 **(e) The provisions of an ordinance adopted under this section**
 9 **are subject to all other laws governing the structure of city**
 10 **government.**

11 **(f) Subject to this chapter, the town legislative body or the city**
 12 **legislative body (after the town is changed into a city) may amend**
 13 **an ordinance adopted under this section.**

14 **(g) A candidate who files a valid declaration of candidacy or a**
 15 **petition of nomination shall be placed on the special election ballot**
 16 **for the office the candidate seeks. Candidates shall be placed on the**
 17 **ballot in the order that the candidates file a declaration of**
 18 **candidacy or petition of nomination. A candidate's political**
 19 **affiliation shall be indicated on the ballot next to the candidate's**
 20 **name. If a candidate is an independent candidate, that fact shall be**
 21 **indicated on the ballot next to the candidate's name. If there are no**
 22 **declared write-in candidates for an office, the ballot is not required**
 23 **to include a space for voters to insert the name of a write-in**
 24 **candidate for that office.**

25 **(h) The candidate who receives the most votes for election to a**
 26 **city office at the November 8, 2005, special election is elected to**
 27 **that office.**

28 **(i) Except as provided in this SECTION, a special election held**
 29 **under this SECTION is subject to all provisions of IC 3 applicable**
 30 **to a special election.**

31 **(j) A town that elects its city officers under this SECTION**
 32 **becomes a city on January 1, 2006.**

33 **(k) The acts, contracts, and obligations of a town that is changed**
 34 **into a city under this SECTION become the acts, contracts, and**
 35 **obligations of the city.**

36 **(l) The ordinances, rules, and regulations of a town that is**
 37 **changed into a city under this SECTION continue in effect as**
 38 **ordinances, rules, and regulations of the city until amended or**
 39 **repealed.**

40 **(m) This SECTION expires January 1, 2009.**

41 **SECTION 9. An emergency is declared for this act.**

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SENATE MOTION

Madam President: I move that Senator Antich-Carr be added as coauthor of Senate Bill 512.

DROZDA

SENATE MOTION

Madam President: I move that Senator Zakas be added as coauthor of Senate Bill 512.

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COMMITTEE REPORT

Madam President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Senate Bill No. 512, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective dates in SECTIONS 3 through 4 with "[EFFECTIVE UPON PASSAGE]".

Page 1, line 2, delete "JULY 1, 2005]:" and insert "UPON PASSAGE]:".

Page 1, line 9, delete "JULY 1, 2005]:" and insert "UPON PASSAGE]:".

Page 4, between lines 10 and 11, begin a new paragraph and insert:
 "SECTION 3. IC 36-4-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]:
 Sec. 9. (a) A town must obtain the consent of both the metropolitan development commission and the legislative body of a county having a consolidated city before annexing territory within the county where a consolidated city is located.

(b) This subsection does not apply to the following:

(1) A town:

(A) located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and

(B) that has a population of more than thirty thousand (30,000);

(2) A town:

(A) located in a county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790);

(B) having a population of more than thirty thousand (30,000); and

(C) located in a different county than the city:

A town must obtain the consent of the legislative body of a second or third class city before annexing territory within three (3) miles of the corporate boundaries of the city **unless:**

(1) the town that proposes to annex the territory is located in a different county than the city; or

(2) the annexation by the town is:

(A) an annexation under section 5 or 5.1 of this chapter; or

(B) consented to by at least fifty-one percent (51%) of the owners of land in the territory the town proposes to annex.

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(c) In determining the total number of landowners of the annexed territory and whether signers of a consent under subsection (b)(2)(B) are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

~~(c)~~ (d) Each municipality that is known as an included town under IC 36-3-1-7 is also considered a town for purposes of this section."

Page 4, line 14, strike "subsection" and insert "subsections".

Page 4, line 14, delete "," and insert "and (e)".

Page 4, line 18, reset in roman "sixty-five".

Page 4, line 18, delete "fifty-one".

Page 4, line 18, reset in roman "(65%)".

Page 4, line 18, delete "(51%)".

Page 4, line 20, reset in roman "seventy-five".

Page 4, line 20, delete "sixty-five".

Page 4, line 20, reset in roman "(75%)".

Page 4, line 21, delete "(65%)".

Page 4, after line 42, begin a new paragraph and insert:

"(e) This subsection applies if:

(1) the territory to be annexed consists of not more than ten (10) parcels; and

(2) eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality.

An annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by at least ninety percent (90%) of the owners of land in the annexed territory as determined under subsection (b) of this chapter."

Page 6, line 24, strike "following".

Page 6, line 24, after "conditions" insert "set forth in clauses (A) through (D) and, if applicable, clause (E)".

Page 6, line 36, reset in roman "sixty-five".

Page 6, line 36, delete "fifty-one".

Page 6, line 36, reset in roman "(65%)".

Page 6, line 36, delete "(51%)".

Page 6, line 38, reset in roman "seventy-five".

Page 6, line 38, delete "sixty-five".

Page 6, line 39, reset in roman "(75%)".

Page 6, line 39, delete "(65%)".

Page 6, between lines 40 and 41, begin a new line double block

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indented and insert:

"(E) This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than ten (10) parcels. At least ninety percent (90%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter."

Page 8, line 5, delete "JULY 1, 2005]" and insert "UPON PASSAGE]:".

Page 8, line 5, after "IC 36-4-1-5" delete ";" and insert ".".

Page 8, delete line 6.

Page 8, line 7, delete "JULY 1, 2005]" and insert "UPON PASSAGE]:".

Page 8, line 8, delete "July 1," and insert "**January 1,**".

Page 8, between lines 11 and 12, begin a new paragraph and insert:
"SECTION 8. [EFFECTIVE UPON PASSAGE] (a) A town that began conversion into a city under IC 36-4-1, as in effect before January 1, 2005, may complete its conversion into a city under this SECTION.

(b) The town legislative body must adopt an ordinance providing for the transition from governance as a town to governance as a city. The ordinance must include the following details:

(1) A division of the town into city legislative body districts as provided in the applicable provisions of IC 36-4-6.

(2) Provisions for the election of the following officers:

(A) The city executive.

(B) The members of the city legislative body.

(C) The city clerk or city clerk-treasurer as appropriate under IC 36-4-10.

(3) That the first election of the city officers will be held in a special election on November 8, 2005, as provided in this SECTION.

(4) Subject to subdivision (5), the term of office of each city officer elected at the November 8, 2005, special election.

(5) The term of office of each city officer elected at the special election may be as follows, as provided in the ordinance:

(A) The term of office of a city officer may expire January 1, 2007. The successor of a city officer described in this clause shall be elected at the November 7, 2006, general election and serve a term of four (4) years, beginning

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January 1, 2007.

(B) The term of office of a city officer may expire January 1, 2008. The successor of a city officer described in this clause shall be elected at the November 6, 2007, municipal election and serve a term of four (4) years, beginning January 1, 2008.

(C) The term of office of a city officer may expire January 1, 2009. The successor of a city officer described in this clause shall be elected at the November 4, 2008, general election and serve a term of four (4) years, beginning January 1, 2009.

The ordinance may provide for different terms of office of the city officers elected at the November 8, 2005, special election in order to provide for staggered terms of office.

(6) Any other details the town legislative body considers useful in providing for the transition of the town into a city.

(c) If a town legislative body adopts an ordinance under this SECTION, a copy of the ordinance must be filed with the circuit court clerk of each county in which the town has territory.

(d) Notwithstanding IC 3-10-8-5, candidates for a city office elected under this SECTION shall be nominated as follows:

(A) If a candidate is affiliated with a major political party, the candidate shall be nominated by a declaration of candidacy. A declaration of candidacy must be filed not earlier than July 27, 2005, and not later than August 26, 2005. Except as provided in this SECTION, IC 3-8-2 applies to a declaration of candidacy filed under this SECTION.

(B) If a candidate is not affiliated with a major political party, the candidate may be nominated by a petition of nomination. A petition of nomination must be filed not earlier than July 27, 2005, and not later than August 26, 2005. Except as provided in this SECTION, IC 3-8-6 applies to a petition of nomination filed under this SECTION.

(C) If a candidate wants to be a write-in candidate, the candidate shall file a declaration of intent to be a write-in candidate not earlier than July 27, 2005, and not later than August 26, 2005. Except as provided in this SECTION, IC 3-8-2 applies to a declaration of intent to be a write-in candidate filed under this SECTION.

(e) The provisions of an ordinance adopted under this section

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are subject to all other laws governing the structure of city government.

(f) Subject to this chapter, the town legislative body or the city legislative body (after the town is changed into a city) may amend an ordinance adopted under this section.

(g) A candidate who files a valid declaration of candidacy or a petition of nomination shall be placed on the special election ballot for the office the candidate seeks. Candidates shall be placed on the ballot in the order that the candidates file a declaration of candidacy or petition of nomination. A candidate's political affiliation shall be indicated on the ballot next to the candidate's name. If a candidate is an independent candidate, that fact shall be indicated on the ballot next to the candidate's name. If there are no declared write-in candidates for an office, the ballot is not required to include a space for voters to insert the name of a write-in candidate for that office.

(h) The candidate who receives the most votes for election to a city office at the November 8, 2005, special election is elected to that office.

(i) Except as provided in this SECTION, a special election held under this SECTION is subject to all provisions of IC 3 applicable to a special election.

(j) A town that elects its city officers under this SECTION becomes a city on January 1, 2006.

(k) The acts, contracts, and obligations of a town that is changed into a city under this SECTION become the acts, contracts, and obligations of the city.

(l) The ordinances, rules, and regulations of a town that is changed into a city under this SECTION continue in effect as ordinances, rules, and regulations of the city until amended or repealed.

(m) This SECTION expires January 1, 2009."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 512 as introduced.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 6, Nays 3.

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